

**Subpart 1237.1—Service
Contracts—General**

**1237.104 Personal services contracts.
(USCG)**

**1237.104-90 Delegation of authority.
(USCG)**

(a) Section 733(a) of Pub. L. 104-106, the DOD Authorization Act of 1996, amended Title 10 of the United States Code to include a new provision which authorizes the Secretary, with respect to the Coast Guard, to enter into personal services contracts at medical treatment facilities (10 U.S.C. 1091).

(b) The authority of the Secretary of Transportation under Pub. L. 104-106 to award personal services contracts for medical services at facilities for the Coast Guard is delegated to the HCA with the authority to redelegate to contracting officers under procedures established by the HCA, who will address applicable statutory limitations under section 1091A of Title 10 U.S.C.

[64 FR 2438, Jan. 14, 1999]

1237.104-91 Personal services contracts with individuals under the authority of 10 U.S.C. 1091. (USCG)

(a) Personal services contracts for health care services are authorized by 10 U.S.C. 1091 for the Coast Guard. Sources for contracts for health care services under the authority of 10 U.S.C. 1091 shall be selected through procedures established in this section. These procedures do not apply to contracts awarded to business entities other than individuals. Selections made using the procedures in this section are exempt by statute from (TAR) 48 CFR part 1206 competition requirements (see (TAR) 48 CFR part 1206.9000 (USCG)) and from (FAR) 48 CFR part 6 competition requirements.

(b) The contracting officer must provide adequate advance notice of contracting opportunities to individuals residing in the area of the facility. The notice should include the qualification criteria against which individuals responding shall be evaluated. Contracting officers shall solicit offerors through the most effective means of seeking competition, such as a local publication which serves the area of the facility. Acquisitions for health

care services using personal services contracts are exempt from posting and synopsis requirements of (FAR) 48 CFR part 5.

(c) The contracting officer shall provide the qualifications of individuals responding to the notice to the representative(s) responsible for evaluation and ranking in accordance with the evaluation procedures. Individuals must be considered solely on the professional qualifications established for the particular health care services being acquired and the Government's estimate of reasonable rates, fees, or costs. The representative(s) responsible for the evaluation and ranking shall provide the contracting officer with rationale for the ranking of the individuals consistent with the required qualifications.

(d) Upon receipt of the ranked listing of offerors, the contracting officer shall either:

(1) Enter into negotiations with the highest ranked offeror. If a mutually satisfactory contract cannot be negotiated, the contracting officer shall terminate negotiations with the highest ranked offeror and enter into negotiations with the next highest, or;

(2) Enter into negotiations with all qualified offerors and select on the basis of qualifications and rates, fees, or other costs.

(e) In the event only one individual responds to an advertised requirement, the contracting officer is authorized to negotiate the contract award. In this case, the individual must still meet the minimum qualifications of the requirement and the contracting officer must be able to make a determination that the price is fair and reasonable.

(f) If a fair and reasonable price cannot be obtained from a qualified individual, the requirement should be canceled and acquired using procedures other than those set forth in this section.

(g) The total amount paid to an individual in any year for health care services under a personal services contract shall not exceed the paycap in COMDTINST M4200.19 (series), Coast Guard Acquisition Procedures.

(h) The contract may provide for the same per diem and travel expenses authorized for a Government employee,

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including actual transportation and per diem in lieu of subsistence for travel between home or place of business and official duty station and only for travel outside the local area in support of the statement of work.

(i) Coordinate benefits, taxes and maintenance of records with the appropriate office(s).

(j) The contracting officer shall insure that contract funds are sufficient to cover all contingency items that may be cited in the statement of work for health care services.

[64 FR 2438, Jan. 14, 1999]

1237.110 Solicitation provisions and contract clauses.

Contracting officers shall insert the clause at (TAR) 48 CFR 1252.237-70, Qualifications of Employees, in all solicitations and contracts for services which require contract performance at a Government facility.

[59 FR 40284, Aug. 8, 1994]

Subpart 1237.70—Department of Transportation Procedures for Acquiring Training Services

SOURCE: 61 FR 392, Jan. 5, 1996, unless otherwise noted.

1237.7000 Policy.

When training services are provided under contract to DOT, it is the policy of DOT that all prospective contractors:

(a) Certify that the data provided concerning company qualifications, background statements, etc., is current, accurate, and complete; and

(b) Agree to not solicit or advertise private, non-Government training while conducting a training course.

1237.7001 Certification of data.

Towards fulfilling DOT's policy at (TAR) 48 CFR 1237.7000(a), contracting officers shall request information from prospective contractors for certification purposes. The type of information requested is dependent upon the criticality of the service and/or any unique or essential qualification requirements.

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1237.7002 Applicability.

The policy at (TAR) 48 CFR 1237.7000 applies to all DOT contracts as defined in FAR 2.101 for training services when DOT controls the content and/or presentation of the course. This policy does not apply to courses attended by DOT employees which are offered and sponsored by Government sources of supply, educational institutions, or private entities where DOT does not control the course content or presentation. (See (TAR) 48 CFR 1213.7100 for examples.)

1237.7003 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at (TAR) 48 CFR 1252.237-71, Certification of Data, in solicitations and the clause at (TAR) 48 CFR 1252.237-72, Prohibition on Advertising, in solicitations and contracts for training services when the content and/or presentation of the course is controlled by DOT.

(b) Contracting officers shall incorporate the successful offeror's certified data into any resultant contract(s). Certified data may be incorporated by reference, if the contracting officer determines it contains sufficient descriptive information (i.e., dated material such as résumés, company and/or personnel qualifications) to reliably describe the certified data submitted.

Subpart 1237.90—Mortuary Services

1237.9000 Solicitation provisions and contract clauses. (USCG)

(a) The contracting officer shall insert the following clauses in solicitations and contracts for mortuary services. However, USCG clauses (TAR) 48 CFR 1252.237-91 and 1252.237-97 shall not be inserted in solicitations and contracts that include port of entry requirements:

(1) (TAR) 48 CFR 1252.237-90, Requirements;

(2) (TAR) 48 CFR 1252.237-91, Area of Performance;

(3) (TAR) 48 CFR 1252.237-92, Performance and Delivery;

(4) (TAR) 48 CFR 1252.237-93, Subcontracting;